IN THE HIGH COURT OF UTTARAKHANDAT NAINITAL.

Writ Petition No. 49(S/B)03

Anand Singh S/o Sri Deo Singh Gosain,
Resident of 57/1, Araghar, Dehradun,
Uttarakhand. ----Petitioner.

Vs.

1. Union of India through its Secretary,
   Ministry of Defence, New Delhi,
2. Commandant Indian Military Academy,
   Dehradun,
3. President Officers Mess Committee,
   Indian Military Academy, Dehradun,
4. Mess Secretary, Indian Military Academy, Dehradun,
5. The Chief of the Army Staff,
   Army Headquarter, New Delhi. -----Respondents.

None for the petitioner.
Smt. Anjali Bhargava, learned Standing Counsel for Union of India/respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Smt. Anjali Bhargava, learned Standing Counsel for Union of India/respondents. No one is present on behalf of the petitioner

The petitioner has preferred the instant writ petition for the following reliefs:-

a) Issue a writ, order or direction in the nature of certiorari directing the respondents to quash the notice of termination dated 31.12.2002 (annexure no.8),

b) Issue a suitable writ, order or direction as this Hon'ble Court may deem fit and proper under the circumstances of the case to secure the ends of justice,

c) Award the cost of this petition to the petitioner.

I have perused the counter affidavit filed by the respondents. The respondents have stated that the petitioner is a temporarily employee as Waiter in the Officers Mess of I.M.A. since 1991. As per para-08 of Administration Instructions, the services of regimental employees can be terminated by the Commandant at any time, after giving notice of one month. The petitioner was neither appointed as permanent Govt. employee nor his services are guided by any Civil Services Rules. The petitioner who was employed as Waiter in Officers Mess is being paid his salary out of Officers Mess funds, which is raised through subscription from the members of the Officers Mess and contribution from the C.S.D. Canteen profits. The Officers Mess is run on “no profit no loss” basis. It has been further stated in the counter affidavit that as and when there is shortage of funds in the Officers Mess and strength of members gets reduced, the strength of Officers Mess staff i.e. Waiters etc. is reduced, therefore the petitioner was issued a notice for termination of his services, however his services were never terminated because the Officers Mess fund state improved and strength of members also increased. The petitioner is constrained to file the instant petition against the notice for termination of his services. In any case, no order has been passed terminating the services of petitioner.

In view of the aforesaid averments made in the counter affidavit, the writ petition has rendered infructuous.

Accordingly, the writ petition is dismissed being infructuous. No order as to costs.

(M.M. Ghildiyal, J.)

August 3, 2007:
NCM: